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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,060	12/16/2003	Thomas J. Dinger	LOT920030029US1 (014)	5227

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BOCA RATON, FL 33487

EXAMINER
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HU, KANG

ART UNIT	PAPER NUMBER
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3715

MAIL DATE	DELIVERY MODE
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04/28/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/737,060	<b>Applicant(s)</b> DINGER ET AL.	
	<b>Examiner</b> KANG HU	<b>Art Unit</b> 3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

1. Present office action is in response to amendment filed 2/06/2009. Claims 1-19 are currently pending in the application.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-8 and 17-19 are rejected under USC 101, the claimed invention is directed to non-statutory subject matter. In order for a claimed process to be considered statutory it must be: (1) tied to a particular machine or apparatus, or (2) transform a particular article into a different state or thing. The use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent-eligibility; the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity; and the transformation must be central to the purpose of the claimed process. Claims 1 and 17 as recited do not act upon a physical object so as to provide a transformation of that object into a different state or thing. Further the claims do not recite a tie to a particular machine or apparatus. The recitation of establishing within a computer system, adding within the computing system, and limiting access within the computing system (claim 1) and disposed within a computing system, access the learning objects within the computing system, an user interface within the computing system and selection of learning objects disposed within the computing system (claim 17) are nominal recitations and do not recite nor require the use of any specific machine or apparatus.

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Claims 2-8, 18 and 19 are rejected for its dependency upon claims 1 and 17 for failing to correct these deficiencies. As such, they are rejected for the same reason.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 4, 9, 11, 12, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Rukavina (US 2002/0188583 A1).

Re claims 1, 9, and 17, Rukavina teaches a method of administering learning objects within a learning management system, comprising the steps of:

establishing within a computer system a learning folder for a particular learner in the learning management system (LMS) which is separate from an existing selection of learning objects (¶ 30, custom assembly of learning objects for each student according to preference and ability - the learning objects are separate from existing selection of learning objects as they are customized for each student), the learning folder comprising a configuration to aggregate access to learning objects from the separate existing selection of learning objects (¶ 32, easily input externally-provided course content into the system); adding within the computing system one or more of the learning objects to the learning folder (¶ 37, assemble learning objects); initially limiting access

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to the learning folder within the computing system to the particular user (§ 72, individually created for the user).

Re claims 3, 4, 11, and 12, modifying the learning folder by adding or removing one or more additional learning objects to the learning folder (§ 30, dynamic deliver tool is capable of “on-the-fly” rendering of learning objects, and is capable of custom assembly of the objects such that each student receives only those objects that are required for, or desired by, the student).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 5-8, 10, 13-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rukavina (US 2002/0188583 A1) in view of Alcorn et al. (US 6,988,138 B1). Re claims 2, 10, and 19, Rukavina does not explicitly teach of establishing a learning link for the learning folder, which provides access to the learning folder for one or more additional learners. Alcorn teaches of giving students access to data files associated with a course (col 3, lines 64-67), making course files available to a predefined community of students users (col 5, lines 35-37). It would have been obvious to one of ordinary skill at the time of the invention to make the student learning folder available to other students in order to share the course contents for more effective learning. The concept of sharing is well known to one of ordinary skill in the art (e.g.

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teacher sharing their lesson plans with other teachers, student sharing notes and cooperatively study with students in the same class, school establishing classes of different difficulty level so the students of the same grade level study at the same level, or identifying learners as members of a particular learning style category).

Re claims 5, 6, 13, 14, and 18, modifying the learning link by adding or removing access for one or more of the learners, limiting the access to the person that created the folder (col 3, lines 64-68: level of access to data).

Re claims 7 and 15, removing a learning folder from the learning management system (col 17, line 53).

Re claims 8 and 16, removing a learning link from the learning management system (col 3, line 65: level of access).

### ***Response to Arguments***

7. Applicant's argument in section III, examiner's re-opening of prosecution has been acknowledged, however the argument is not relevant to the merit of the prosecution and will not be addressed herein.

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to KANG HU whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-262-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/  
Primary Examiner, Art Unit 3715

/K. H./  
Examiner, Art Unit 3715